

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1477

91ST GENERAL ASSEMBLY

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Reported from the Committee on Education, April 15, 2002, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

2767L.02C

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 360.106, 360.111, and 360.112, RSMo, and to enact in lieu thereof three new sections relating to the Missouri health and educational facilities act.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

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Section A. Sections 360.106, 360.111, and 360.112, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 360.106, 360.111, and  
3 360.112, to read as follows:

360.106. 1. As used in this section and sections 360.111 to 360.118, the following  
2 terms mean:

3 (1) "Funding agreement", any loan agreement, financing agreement or other  
4 agreement between the authority and a participating district under this section,  
5 providing for the use of proceeds of, security for, and the repayment of, school district  
6 bonds, and shall include a complete waiver by the participating district of all powers,  
7 rights and privileges conferred upon the participating district to institute any action  
8 authorized by any act of the Congress of the United States relating to bankruptcy on the  
9 part of the participating district;

10 (2) "Participating district", with respect to a particular issue of bonds, notes or  
11 other financial obligations, any school district and any public community junior college  
12 in this state which voluntarily enters into a funding agreement with the authority  
13 pursuant to this section;

14 (3) "School district bonds", any bonds, notes or other obligations issued by the  
15 authority for the purpose of making loans to, purchasing the bonds or notes of or  
16 otherwise by agreement using or providing for the use of the proceeds of the obligations  
17 by a participating district under this section and all related costs of issuance of the

18 obligations including, but not limited to, all costs, charges, fees and expenses of  
19 underwriters, financial advisors, attorneys, consultants, accountants and of the  
20 authority.

21         2. In addition to other powers granted to the authority by sections 360.010 to  
22 360.140, the authority shall have the power to issue school district bonds or notes for the  
23 purpose of making loans to, or purchasing the bonds, notes or other financial  
24 instruments of:

25             (1) Any school district or any public community junior college in this state for the  
26 use of the various funds of such school district or public community junior college for any  
27 lawful purpose; and

28             (2) Any school district in this state with respect to obligations issued by such  
29 school district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

30         3. In connection with the issuance of school district bonds pursuant to the powers  
31 granted in this section, the authority shall have all powers as set forth elsewhere in  
32 sections 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be  
33 applicable to the issuance of school district bonds to the extent that they are not  
34 inconsistent with the provisions of this section.

35         4. School district bonds issued pursuant to this section may be secured by a  
36 pledge of payments made to the authority by the participating district, by the bonds or  
37 notes of the participating district, or by a pooling of such payments, bonds or notes of  
38 two or more of such participating districts or as otherwise set forth in the funding  
39 agreements.

40         5. The authority may invest any funds held pursuant to powers granted under  
41 this section, which are not required for immediate disbursement, in any investment  
42 approved by the authority and specified in the trust indenture or resolution pursuant to  
43 which such bonds or notes are issued without regard to any limitation otherwise imposed  
44 by section 360.120 or otherwise by law; provided, however, that each participating  
45 district shall receive the earnings, or a credit for such earnings, to the extent any such  
46 amounts invested are attributable to a particular participating district.

47         6. (1) In connection with school district bonds, upon certification by the authority  
48 to the commissioner of education and the state treasurer that the funding agreement  
49 provides for consent by a participating district for direct deposit of its state payments  
50 to the trustee, the state treasurer shall transfer, but only out of funds described in this  
51 section, directly to the trustee for such school district bonds, the amounts needed to pay  
52 the principal and interest when due on the school district bonds attributable to a  
53 particular participating district. Such transfers for any school district bonds attributable

54 to a particular participating district shall only be made out of, and to the extent of, the  
55 state payments and distributions from all funds to be made by the state to such  
56 participating district pursuant to sections 163.011 to 163.195, RSMo, and the  
57 distributions from the fair share fund to be made by the state to such participating  
58 district pursuant to section 149.015, RSMo. Any such transfer by the state on behalf of  
59 a participating district shall discharge the state's obligation to make such state  
60 payments to such participating district to the extent of such transfer;

61 (2) A participating district shall withdraw amounts from any of its funds  
62 established pursuant to section 165.011, RSMo, to the extent such amounts could have  
63 been used to make the payments made on its behalf by the state treasurer as provided  
64 in subdivision (1) of this subsection. Notwithstanding any provisions of section 108.180,  
65 RSMo, to the contrary, such amounts shall be deposited into the participating district's  
66 funds as provided by law in lieu of the state payments transferred to the trustee under  
67 the funding agreement;

68 (3) The authority shall from time to time develop guidelines containing certain  
69 criteria with respect to participating school districts and with respect to the issuance of  
70 school district bonds;

71 (4) Transfers made under this subsection pursuant to a school district's  
72 participation in a funding agreement under this section shall be made at no cost to the  
73 school district.

74 7. The authority shall provide for the payment of costs of issuance, costs of credit  
75 enhancement and any other costs or fees related to the issuance of any school district  
76 bonds other than reserve funds, out of the proceeds thereof or out of amounts distributed  
77 annually to the authority pursuant to sections 160.534 and 164.303, RSMo. The  
78 authority shall annually submit a request for funding of such costs to the commissioner  
79 of education in such form and at such time as he may request. A copy of such request  
80 shall be forwarded to the commissioner of administration. The authority shall provide  
81 for the payment of costs pursuant to this subsection only for bonds issued for the purpose  
82 of financing construction or renovation projects approved by voters after January 1, 1995,  
83 or refinancing construction or renovation projects or for refinance of lease purchase  
84 obligations with general obligation bonds.

85 8. Any refunding or refinancing of existing bonds of a school district under this  
86 section shall have a net present value savings of at least one and one-half percent of the  
87 par amount of the refunded bonds.

88 9. The commissioner of education shall serve as an ex officio, nonvoting, advisory  
89 member of the authority solely with regard to the exercise of powers granted pursuant

90 to this section.

91 10. Nothing in this section or sections 360.111 to 360.118 shall be construed to  
92 relieve a school district **or public community junior college** of its obligation to levy  
93 a debt service levy or capital projects levy sufficient to retire any obligation of the  
94 district **or college** as otherwise provided by law.

95 11. Any professional services provided in connection with the sale of such bonds  
96 pursuant to this section, including, but not limited to, underwriters, bond counsel,  
97 underwriters' counsel, trustee and financial advisors, shall be obtained through  
98 competitive bidding. The initial bid for professional services shall be for a period of not  
99 longer than two years, and thereafter such bids shall be awarded for a period not longer  
100 than one year.

101 12. The authority shall review the cost effectiveness of the program established  
102 under this section and sections 360.111 to 360.118 and shall, on or before the fifteenth  
103 of August of each year, provide a report to the general assembly which shall contain a  
104 report on the program, the authority's findings and a recommendation of whether this  
105 section should be repealed, strengthened or otherwise amended.

360.111. Any school district **or public community junior college** which is not  
2 a participating district, as defined in section 360.106, with respect to a particular issue  
3 of its bonds, notes or other financial obligations may participate with the authority in  
4 a direct deposit agreement with respect to such issue of bonds, notes or other financial  
5 obligations. A direct deposit agreement under sections 360.111 to 360.118 shall satisfy  
6 all requirements of subsection 6 of section 360.106 with regard to funding agreements  
7 of participating districts, and such school district shall be subject to all requirements  
8 applicable to participating districts under subsections 6 and 9 of section 360.106 and  
9 shall have all powers granted to participating districts under subsection 6 of section  
10 360.106. A direct deposit agreement under sections 360.111 to 360.118 shall include a  
11 complete waiver by the school district **or public community junior college** of all  
12 powers, rights and privileges conferred upon the school district **or public community**  
13 **junior college** to institute any action authorized by any act of the Congress of the  
14 United States relating to bankruptcy on the part of the school district **or public**  
15 **community junior college**. No school district **or public community junior college**  
16 shall be precluded from participation with the authority pursuant to section 360.106 with  
17 respect to any particular issue of bonds, notes or other financial obligations on the basis  
18 of the district's **or college's** participation with the authority in a direct deposit  
19 agreement pursuant to sections 360.111 to 360.118 with respect to any other issue of  
20 bonds, notes or other financial obligations.

360.112. The authority shall serve as administrator for any issuance pursuant  
2 to sections 360.111 to 360.118. The authority, the commissioner of education and the  
3 state treasurer shall be authorized to take all actions with regard to a school district **or**  
4 **public community junior college** which has a direct deposit agreement under  
5 sections 360.111 to 360.118 as such persons are authorized to take such actions with  
6 respect to a participating district under subsection 6 of section 360.106.

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